

PUBLIC UTILITY DISTRICT NO. 2 OF PACIFIC COUNTY
Pacific County, Washington
January 1, 1995 Through December 31, 1995

Schedule Of Findings

1. The District Should Not Provide Internet Access Services

On February 20, 1996, the district's board of commissioners passed a motion authorizing the district to be an Internet service provider, to offer these services to the public, and to set subscriber fees. The district subsequently started this service and, as of January 1997, provides Internet access to approximately 200 customers for a monthly charge. The initial start-up costs of this service, authorized not to exceed \$100,000, were provided by an interfund loan from the electric system.

Chapter 54.16 RCW enumerates the powers which are statutorily authorized for public utility districts. These include, among others, broad powers regarding generation, transmission and distribution of electrical energy, domestic and industrial water supply and irrigation, energy and water conservation measures, and sanitary sewer and septic systems. We were unable to find any statutory authority which allows public utility districts to operate telecommunications services.

The effect of the district providing unauthorized services may not result in the greatest benefit to the public. If the telecommunications services cost more than the revenue they generate, it is possible that the district's electric and water utility customers could end up subsidizing the operations. In addition, the district's provision of these services could hinder development of private telecommunications services at potentially lower rates.

Our discussions and correspondence with the district's attorney and staff indicate that the district was unaware of its lack of statutory authority and believed the federal Telecommunications Act of 1995 authorized the district's provision of this service.

We recommend the district terminate its service as an Internet provider. We further recommend the district consult with the Attorney General regarding resolution of legal issues arising from providing these unauthorized services.

2. The District Should Provide Medical Benefits Only To Those Eligible

On January 19, 1993, the district's board of commissioners passed Resolution 1077, which in part provided medical benefits to its attorney, in addition to the attorney's monthly retainer fee. The attorney was included in the district's group medical and dental policies.

RCW 54.04.050 states in part:

. . . any public utility district engaged in the operation of electric or water utilities may enter into contracts of group insurance **for the benefit of its employees** (Emphasis added.)

RCW 54.12.080 states in part:

. . . any district providing group insurance for its employees . . . may provide insurance for its commissioners with the same coverage.

The statutes referenced above allow provision of medical benefits to district employees and commissioners. The attorney is not a district employee, but an independent contractor, under definitions established by the Internal Revenue Service. Other than commissioners, we find no statutory authority for nonemployees to receive employee benefits.

We recommend the district discontinue providing the district's attorney medical insurance and limit group insurance coverage to district employees and commissioners.

Auditee's Response

In 1986, P.U.D. No. 2 of Pacific County started including the District's attorney in our group medical and dental program. The attorney was paid a retainer in addition to being included in the District's employee health insurance benefits package paid by the Utility. As per the Auditor's recommendation, P.U.D. No. 2 of Pacific County will no longer absorb the medical and dental program costs for our attorney effective with the March coverage payment.